

# **EXHIBIT “A”**

8/3/2016 4:20:23 PM

Velva L. Price  
District Clerk  
Travis County  
D-1-GN-16-003515  
Chloe Jimenez

CAUSE NO. D-1-GN-16-003515

ANTOINETTE MATTOX  
AND RONALD MATTOX

V.

SAFECO INSURANCE COMPANY  
OF INDIANA AND  
DERRICK ETHERIDGE

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IN THE DISTRICT COURT

345TH JUDICIAL COURT

TRAVIS COUNTY, TEXAS

**PLAINTIFFS' ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME Antoinette and Ronald Mattox, Plaintiffs herein, who file this, their Original Petition against the Defendants, Safeco Insurance Company of Indiana and Derrick Etheridge, and hereby respectfully show unto the Court and Jury as follows:

**I.**  
**DISCOVERY CONTROL PLAN**

Plaintiffs intend for discovery to be conducted under Level 2 of the Texas Rules of Civil Procedure.

**II.**  
**PARTIES**

Plaintiffs, Antoinette and Ronald Mattox, are individuals residing in Travis County, Texas.

The Court has jurisdiction over Defendant, Safeco Insurance Company of Indiana ("Safeco"), because Defendant is an insurance company that engages in the business of insurance in the State of Texas and Plaintiffs' causes of action arise out of Defendant's business activities in the State of Texas. It can be served with citation by serving its registered agent, Corporation Service Company, 211 East 7<sup>th</sup> Street, Suite 620, Austin, TX 78701.

The Court has jurisdiction over Defendant, Derrick Etheridge (“Etheridge”), because Defendant Etheridge is an individual residing in Texas. He can be served with citation at his home at 5207 La Viva Lane, Arlington, TX 76017.

**III.**  
**VENUE**

Venue is proper in Travis County, Texas, because all or a substantial part of the events giving rise to the lawsuit occurred in this county (*see* Tex. Civ. Prac. & Rem. Code §15.002) and the insured property that is the basis of this lawsuit is located in Travis County, Texas. *See* Tex. Ins. Code §2210.552 and Tex. Civ. Prac. & Rem. Code §15.002 (see below). Venue is proper and mandatory in Travis County against all the potential Defendants in this case because venue is mandatory and/or proper against at least one Defendant and all claims or actions in this case arise out of the same transaction, occurrence, or series of transactions or occurrences. *See* Tex. Civ. Prac. & Rem. Code §15.005.

**IV.**  
**CONDITIONS PRECEDENT**

All conditions precedent to recovery have been performed, waived, or have occurred.

**V.**  
**FACTS**

Plaintiffs are the owners of Policy number OY7134851 issued by Defendant Safeco (hereinafter referred to as the “Policy”). Plaintiffs owned the insured property (hereinafter referred to as the “Property”), which is specifically located at 101 Crescent Bluff, Lakeway, TX 78734. Plaintiffs’ Property is a rental property. After the storm and because of the interior water damage to the property, Plaintiffs’ tenants vacated the property and Plaintiffs have been unable to rent the property because of the damage. Plaintiffs were forced to make a full repair of their property to mitigate their damage.

Defendant sold the Policy, insuring the Property that is the subject of this lawsuit, to Plaintiffs. Plaintiffs suffered a significant loss with respect to the Property at issue as a result of hail and strong winds. Plaintiffs submitted a claim to Defendant for damages to the Property insured by Defendant. Defendant assigned claim number 130183195002 to Plaintiffs' claim.

Defendant Etheridge acted as the claim representative and made contact with the insureds to begin their claim. Defendant Etheridge sent Philip Littlejohn to inspect the property but Defendant Etheridge made determinations as to the scope of loss, cost estimate, and causation. Defendant Etheridge represented to the Plaintiffs that if they obtained an independent estimate and submitted it to him, that he would review the estimate and photos. However, upon submitting the estimate to Defendant Etheridge, Defendant Etheridge obtained Donan Engineering to complete a review of the property. Donan Engineering submitted a conclusory estimate that provided inadequate and insufficient explanation as to why Plaintiffs' roof damage was not caused by hail. Plaintiffs' roof claim was subsequently denied as being caused by friction between the tiles, expansion of the tiles, and/or foot traffic. Donan made this assumption even though the hail at the Plaintiffs' property was sufficient hail size to damage the roof tiles, as explained by Donan's own report. Upon receiving this report, Defendant Etheridge denied Plaintiffs' claim.

Defendant Etheridge wrongly determined that the majority of Plaintiffs' claim was excluded under the policy by misrepresenting the cause of the damage and the language of the policy exclusions. Defendant Etheridge attributed the vast majority of Plaintiffs' damage to friction, expansion, and footfall; therefore, causing Plaintiffs' claim to not be covered by Defendant Safeco.

Defendant Safeco failed to perform its contractual duty to adequately compensate Plaintiffs under the terms of the Policy. Defendant Safeco failed and refused to pay the full proceeds due under the Policy, although due demand was made for proceeds to be paid in an amount sufficient to

cover the damage and all conditions precedent to recovery upon the Policy and under Plaintiffs' claims have been carried out and accomplished by Plaintiffs. Such conduct by Defendant Safeco constitutes breach of the insurance contract between Defendant and Plaintiffs.

Defendants Safeco and Etheridge misrepresented to Plaintiffs that the damage to the Property was not covered under the Policy, even though the damage was caused by a covered occurrence. Defendants' conduct constitutes violations of the Texas Insurance Code. Defendants misrepresented to Plaintiffs that Plaintiffs' property was excluded under the Policy.

Defendants Safeco and Etheridge failed to make an attempt to settle Plaintiffs' claim in a fair manner, although it was or should have been aware of its liability to Plaintiffs under the Policy. Defendants' conduct constitutes violations of the *Texas Unfair Competition and Unfair Practices Act*, TEX. INS. CODE §541.060(2).

Defendants Safeco and Etheridge failed to promptly provide to Plaintiffs a reasonable explanation of the basis of the policy, in relation to the facts or applicable law, for the Defendants' denial of the claim. Defendants' conduct constitutes violations of the *Texas Unfair Competition and Unfair Practices Act*, TEX. INS. CODE §541.060(3).

Defendants Safeco and Etheridge failed to affirm or deny coverage of Plaintiffs' claim within a reasonable time. Specifically, Plaintiffs did not receive timely indication of acceptance or rejection regarding the full and entire claim in writing from Defendants Safeco and Etheridge. Defendants' conduct constitutes violations of the *Texas Unfair Competition and Unfair Practices Act*, TEX. INS. CODE §541.060(4).

Defendants Safeco and Etheridge refused to fully compensate Plaintiffs, under the terms of the Policy, even though Defendants Safeco and Etheridge failed to conduct a reasonable



investigation. Specifically, Defendants' conduct constitutes violations of the *Texas Unfair Competition and Unfair Practices Act*, TEX. INS. CODE §541.060(7).

Defendant Safeco failed to meet its obligations under the Texas Insurance Code regarding acknowledging Plaintiffs' claim, beginning investigations to Plaintiffs' claim and requesting all information reasonably necessary to investigate Plaintiffs' claim within fifteen (15) days of receiving notice of Plaintiffs' claim. Defendant Safeco's conduct constitutes violations of the *Texas Prompt Payment of Claims Act*, TEX. INS. CODE §542.055.

Defendant Safeco failed to accept or deny Plaintiffs' full and entire claim within fifteen (15) business days of receiving all required information. Defendant Safeco's conduct constitutes a violation of the *Texas Prompt Payment of Claims Act*, TEX. INS. CODE §542.056.

Defendant Safeco failed to meet its obligations under the Texas Insurance Code regarding payment of claims without delay. Specifically, Defendant Safeco has delayed full payment of Plaintiffs' claim longer than allowed and, to date, Plaintiffs have not yet received full payment for the claim. Defendant's conduct constitutes a violation of the *Texas Prompt Payment of Claims Act*, TEX. INS. CODE §542.055.

From and after the time Plaintiffs' claim was presented to Defendant Safeco, the liability of Defendant to pay the full claim in accordance with the terms of the Policy was reasonably clear. However, Defendant has refused to pay Plaintiffs in full, despite Defendant having no good faith basis on which a reasonable insurance company would have relied on to deny the full payment. Defendant's conduct constitutes breaches of the common law duty of good faith and fair dealing.

As a result of Defendant's acts and omissions, Plaintiffs were forced to retain the attorney who is representing Plaintiffs in this cause of action.

**VI.**  
**CAUSES OF ACTION**

**A. Breach of Contract by Defendant Safeco**

Defendant's failure and refusal, as described above, to pay the adequate compensation as it is obligated to do under the terms of the Policy in question and under the laws of the State of Texas, constitute material breaches of the insurance contract with Plaintiffs. Plaintiffs have suffered damages in the form of actual damages, consequential damages and reasonable and necessary attorney's fees.

**B. Cause of Action for Violation of Section 541 by Defendants Safeco and Etheridge**

Defendants' conduct constitutes multiple violations of the *Texas Unfair Compensation and Unfair Practices Act*. TEX. INS. CODE §541.151.

Defendants' unfair practice, as described above, of misrepresenting to Plaintiffs material facts relating to the coverage at issue, constitutes an unfair method of competition and an unfair and deceptive act or practice in the business of insurance. TEX. INS. CODE §541.051, 541.060 and 541.061.

Defendants' unfair settlement practice, as described above, of failing to attempt in good faith to effectuate a prompt, fair, and equitable settlement of the claim, even though Defendants' liability under the Policy was reasonably clear, constitutes an unfair method of competition and an unfair and deceptive act or practice in the business of insurance. TEX. INS. CODE §541.051, 541.060 and 541.061.

Defendants' unfair settlement practice, as described above, of failing to promptly provide Plaintiffs with a reasonable explanation of the basis in the Policy, in relation to the facts or applicable law, for its offer of a compromise settlement of the claim, constitutes an unfair

method of competition and an unfair and deceptive act or practice in the business of insurance. TEX. INS. CODE ANN. §541.051, 541.060 and 541.061.

Defendants' unfair settlement practice, as described above, of refusing to pay Plaintiffs' claim without conducting a reasonable investigation, constitutes an unfair method of competition and an unfair and deceptive act or practice in the business of insurance. TEX. INS. CODE §541.051, 541.060 and 541.061.

**C. Cause of Action for Violation of Section 542 by Defendant Safeco**

Defendant's conduct constitutes multiple violations of the *Texas Prompt Payment of Claims Act*. TEX. INS. CODE §542. All violations made under this article are made actionable by TEX. INS. CODE §542.060

Defendant's failure, as described above, to acknowledge receipt of Plaintiffs' claim, commence investigation of the claim, and request from Plaintiffs all items, statements, and forms that it reasonably believed would be required within the applicable time constraints, constitutes a non-payment of the claim. TEX. INS. CODE §542.055-542.060.

**D. Violation of the Texas Deceptive Trade Practices Act by Defendant Safeco**

Each of the acts described above, together and singularly, constitute a violation of the Texas Deceptive Trade Practices Act pursuant to its tie-in provision for Insurance Code Violations. Accordingly, Plaintiffs also brought each and every cause of action alleged above under the Texas Deceptive Trade Practices Act pursuant to its tie-in provision.

Plaintiffs incorporate all the allegations in this petition for this cause of action against Defendant under the provisions of the DTPA, including without limitation the misrepresentations made by Defendant as set forth above which were made to and which did, in fact, induce Plaintiffs into purchasing the Policy from Defendant. Plaintiffs are consumers of goods and



services provided by Defendant pursuant to the DTPA. Plaintiffs have met all conditions precedent to bringing this cause of action against Defendant. Specifically, Defendant's violations of the DTPA include, without limitation, the following matters:

By its acts, omissions, failures, and conduct that are described in this petition, Defendant has violated Sections 17.46 (b)(2), (5), (7), (9), (12), (20) and (24) of the DTPA. In this respect, Defendant's violations include, without limitation, (1) its unreasonable delays in the investigation, adjustment and resolution of Plaintiffs' claim, (2) its failure to give Plaintiffs the benefit of the doubt, and (3) its failure to pay for the proper repair of Plaintiffs' home on which liability had become reasonably clear.

As described in this petition, Defendant represented to Plaintiffs that its insurance policy and Defendant's adjusting and investigative services had characteristics or benefits that it did not have, which gives Plaintiffs the right to recover under Section 17.46 (b)(5) of the DTPA;

As described in this petition, Defendant represented to Plaintiffs that its insurance policy and Defendant's adjusting and investigative services were of a particular standard, quality, or grade when they were of another in violation of Section 17.46 (b)(7) of the DTPA;

As described in this petition, Defendant advertised its insurance policy and adjusting and investigative services with intent not to sell them as advertised in violation of Section 17.46 (b)(9) of the DTPA;

As described in this petition, Defendant represented to Plaintiffs that its insurance policy and Defendant's adjusting and investigative services conferred or involved rights, remedies, or obligations that it did not have, which gives Plaintiffs the right to recover under Section 17.46 (b)(12) of the DTPA;

As described in this petition, Defendant failed to disclose information concerning goods or services which were known at the time of the transaction and such failure to disclose was intended to induce Plaintiffs into a transaction into which the Plaintiffs would not have entered had the information been disclosed, which gives Plaintiffs the right to recover under Section 17.46 (b)(24) of the DTPA;

Defendant has breached an express warranty that the damage caused by wind and hail would be covered under the insurance policies. This breach entitles Plaintiffs to recover under Sections 17.46 (b)(12) and (20) and 17.50 (a)(2) of the DTPA;

Defendant's actions, as described in this petition, are unconscionable in that it took advantage of Plaintiffs' lack of knowledge, ability, and experience to a grossly unfair degree. Defendant's unconscionable conduct gives Plaintiffs the right to relief under Section 17.50(a)(3) of the DTPA; and

Defendant's conduct, acts, omissions, and failures, as described in this petition, are unfair practices in the business of insurance in violation of Section 17.50 (a)(4) of the DTPA.

All of the above-described acts, omissions, and failures of Defendant are a producing cause of Plaintiffs' damages that are described in this petition. All of the above-described acts, omissions, and failures of Defendant were done knowingly and intentionally as those terms are used in the Texas Deceptive Trade Practices Act.

**E. Cause of Action for Unfair Insurance Practices by Defendants Safeco and Etheridge**

Defendants' conduct described above constitutes unfair insurance practices.

Plaintiffs incorporate all the allegations in this petition for this cause of action against Defendants under the Texas Insurance Code. By their acts, omissions, failures, and conduct, Defendants have engaged in unfair and deceptive acts or practices in the business of insurance in

violation of 541 of the Texas Insurance Code. Such violations include, without limitation, all the conduct described in this petition plus Defendants' unreasonable delays in the investigation, adjustment, and resolution of Plaintiffs' claim, Defendants' failure to pay for the proper repair of Plaintiffs' real property on which liability had become reasonably clear; engaging in false, misleading and deceptive acts or practices in the business of insurance in this case; and misrepresenting to Plaintiffs pertinent facts or policy provisions relating to the coverage at issue. They further include Defendants' failure to give Plaintiffs the benefit of the doubt. Specifically, Defendants are guilty of the following unfair insurance practices:

- A. Engaging in false, misleading, and deceptive acts or practices in the business of insurance in this case;
- B. Engaging in unfair claims settlement practices;
- C. Misrepresenting to Plaintiffs pertinent facts or policy provisions relating to the coverage at issue;
- D. Not attempting in good faith to effectuate a prompt, fair, and equitable settlement of claims submitted in which liability has become reasonably clear;
- E. Failing to affirm or deny coverage of Plaintiffs' claim within a reasonable time;
- F. Refusing to pay Plaintiffs' claim without conducting a reasonable investigation with respect to the claim; and
- G. Failing to provide promptly to a policyholder a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for the denial of a claim or for the offer of a company's settlement.

Defendants have also breached the Texas Insurance Code when they breached their duty of good faith and fair dealing. Defendants' conduct as described herein has resulted in Plaintiffs' damages that are described in this petition.

All of the above-described acts, omissions, and failures of Defendants were done knowingly as that term is used in the Texas Insurance Code.

**F. Cause of Action for Breach of Duty of Good Faith and Fair Dealing by Defendant Safeco**

Defendant's conduct described above constitutes a breach of the common law duty of good faith and fair dealing owed to insureds in insurance contracts.

Defendant's failure, as described above, to adequately and reasonably investigate and evaluate Plaintiffs' claim, although at the time Defendant knew or should have known by the exercise of reasonable diligence that its liability was reasonably clear, constitutes a breach of the duty of good faith and fair dealing.

Defendant has also breached this duty by unreasonably delaying payment of Plaintiffs' entire claim and by failing to settle Plaintiffs' entire claim because Defendant knew or should have known that it was reasonably clear that the claim was covered. These acts, omissions, failures, and conduct of Defendant are a proximate cause of Plaintiffs' damages.

**VII.  
KNOWLEDGE AND INTENT**

Each of the acts described above, together and singularly, was done "knowingly" and "intentionally" and was a producing cause of Plaintiffs' damages described herein.

**VIII.  
WAIVER AND ESTOPPEL**

Defendants have waived and are estopped from asserting any coverage defenses, conditions, exclusions, or exceptions to coverage not contained in any reservation of rights letter to Plaintiffs.

**IX.**  
**DAMAGES**

The above described acts, omissions, failures and conduct of Defendants have caused Plaintiffs' damages which include, without limitation, the cost to properly repair Plaintiffs' real property, any investigative and engineering fees incurred in the claim and the loss of rental income from the property. Plaintiffs are also entitled to recover consequential damages from Defendants' breach of contract. Plaintiffs are also entitled to recover the amount of their claim plus an 18% per annum penalty on that claim against Defendants as damages under Section 542 of the Texas Insurance Code, plus prejudgment interest and attorneys fees. All the damages described in this petition are within the jurisdictional limits of the Court. Plaintiffs seek monetary relief over \$200,000 but not more than \$1,000,000.

**X.**  
**ADDITIONAL DAMAGES**

Defendants have also "knowingly" and "intentionally" committed deceptive trade practices and unfair insurance practices as those terms are defined in the applicable statutes. Because of Defendants' knowing and intentional misconduct, Plaintiffs are entitled to additional damages as authorized by Section 17.50(b)(1) of the DTPA. Plaintiffs are further entitled to the additional damages that are authorized by Section 541 of the Texas Insurance Code.

**XI.**  
**EXEMPLARY DAMAGES**

Defendants' breach of their duty of good faith and fair dealing owed to Plaintiffs was done intentionally, with a conscious indifference to the rights and welfare of Plaintiffs and with "malice" as that term is defined in Chapter 41 of the Texas Civil Practice and Remedies Code. These violations by Defendants are the type of conduct which the State of Texas protects its citizen against by the imposition of exemplary damages. Therefore, Plaintiffs seek the recovery



of exemplary damages in an amount to be determined by the finder of fact that is sufficient to punish Defendants for their wrongful conduct and to set an example to deter Defendants and others similarly situated from committing similar acts in the future.

**XII.**  
**ATTORNEYS' FEES**

As a result of Defendants' conduct that is described in this petition, Plaintiffs have been forced to retain the undersigned attorneys to prosecute this action and have agreed to pay reasonable attorneys' fees. Plaintiffs are entitled to recover these attorneys' fees under Chapter 38 of the Texas Civil Practices and Remedies Code, Sections 541 and 542 of the Texas Insurance Code, and Section 17.50 of the DTPA.

**XIII.**  
**JURY DEMAND**

Plaintiffs assert Plaintiffs' right to a trial by jury, under Texas Constitution Article 1, Section 15, and make this demand for a jury trial at least 30 days before the date this case is set for trial, in accordance with Texas Rule of Civil Procedure 216. Plaintiffs tender the fee as required by Texas Government Code Section 51.604.

**XIV.**  
**REQUEST FOR DISCLOSURE**

Pursuant to TEX. R. CIV. P. 194, you are requested to disclose, within fifty (50) days of the service of this request, the information or material described in 194.2(a)-194.2(l).

**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that Defendants be cited to appear and answer herein, and that upon trial hereof, said Plaintiffs have and recover such sums as would reasonably and justly compensate them in accordance with the rules of law and procedure, both as to actual damages, consequential damages, treble damages under the Texas

Insurance Code and Texas Deceptive Trade Practices Act, and all punitive, additional, and exemplary damages as may be found. In addition, Plaintiffs request the award of attorney's fees for the trial and any appeal of this case, for all costs of court, for prejudgment and post-judgment interest as allowed by law, and for any other and further relief, at law or in equity, to which they may show themselves to be justly entitled.

Respectfully submitted,

**MARTIN & DROUGHT, P.C.**  
Bank of America Plaza, 25<sup>th</sup> Floor  
300 Convent Street  
San Antonio, TX 78205  
Telephone: (210) 227-7591  
Telecopier: (210) 227-7924  
Email: [cpace@mdtlaw.com](mailto:cpace@mdtlaw.com)

By: /s/ Clare L. Pace  
GERALD T. DROUGHT  
State Bar Number: 06134800  
CLARE L. PACE  
State Bar Number: 24079097  
**ATTORNEYS FOR PLAINTIFFS**

## CIVIL CASE INFORMATION SHEET

MAY ENTER CAUSE # / COURT # IF ALREADY ASSIGNED (E.G., FAMILY MOTION, AMENDED PETITION)

CAUSE NUMBER (FOR CLERK USE ONLY):

COURT (FOR CLERK USE ONLY):

STYLED Antoinette Mattox and Ronald Mattox v. Safeco Insurance Company of Indiana and Derrick Etheridge

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing. This sheet, approved by the Texas Judicial Council, is intended to collect information that will be used for statistical purposes only. It neither replaces nor supplements the filings or service of pleading or other documents as required by law or rule. The sheet does not constitute a discovery request, response, or supplementation, and it is not admissible at trial.

1. Contact information for person completing case information sheet:		Names of parties in case:	Person or entity completing sheet is:
Name:	Email:	Plaintiff(s)/Petitioner(s):	<input checked="" type="checkbox"/> Attorney for Plaintiff/Petitioner
Clare L. Pace	cpace@mdtlaw.com	Antoinette Mattox	<input type="checkbox"/> Pro Se Plaintiff/Petitioner
		Ronald Mattox	<input type="checkbox"/> Title IV-D Agency
Address:	Telephone:	Defendant(s)/Respondent(s):	<input type="checkbox"/> Other: _____
300 Convent St., Ste. 2500	Direct 210-220-1380	Safeco Insurance Company of Indiana	Additional Parties in Child Support Case:
City/State/Zip:	Fax:	Derrick Etheridge	Custodial Parent: _____
San Antonio, TX 78205	210-227-7924		Non-Custodial Parent: _____
Signature: /s/ Clare L. Pace	State Bar No:	[Attach additional page as necessary to list all parties]	Presumed Father: _____
	24079097		

## 2. Indicate case type, or identify the most important issue in the case (select only 1):

OPTION A: CK CASE TYPE (EXCEPT OTHER) FOR CLERK TO SELECT SUIT TYPE; SEE SEC. 3 NOTE BELOW **Civil**

Contract		Injury or Damage	Real Property	Marriage Relationship	Post-judgment Actions (non-Title IV-D)
<b>Debt/Contract</b> <input checked="" type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: _____	<input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <b>Malpractice</b> <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: _____	<input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass or Try Title <input type="checkbox"/> Other Property: _____	<input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void <b>Divorce</b> <input type="checkbox"/> With Children <input type="checkbox"/> No Children	<input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other <b>Title IV-D</b> <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocals (UIFSA) <input type="checkbox"/> Support Order	
<b>Foreclosure</b> <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract: _____	<input type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises <b>Product Liability</b> <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: _____ <input type="checkbox"/> Other Injury or Damage: _____	<b>Related to Criminal Matters:</b> <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment <input type="checkbox"/> Other: _____	<b>Other Family Law</b> <input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other: _____	<b>Parent-Child Relationship</b> <input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Parentage/Paternity <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child: _____	
<b>OPTION B: CK OTHER &amp; ENTER 3-LETTER SUIT TYPE FOR CLERK TO USE WHEN DOCKETING</b>					
<b>Employment</b> <input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment: _____		<b>Other Civil</b> <input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property		<input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetuate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other: _____	

Tax	Probate & Mental Health
<input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax	<input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other: _____
<b>Probate/Wills/Intestate Administration</b> <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings	

## 3. Indicate procedure or remedy, if applicable (may select more than 1):

<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action	<input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment	<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover
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OPTION C: SECTION 3 PROCEDURES/REMEDIES IN **BOLD** MAY BE USED AS CASE OR SUIT TYPES. YOU MAY SPECIFY THAT ONE OF THESE PROCEDURES/REMEDIES BE USED AS A SUIT TYPE BY CHECKING IT AND LEAVING THE CASE TYPE IN SECTION 2 BLANK. SELECTING A CASE TYPE IN SECTION 2 OVERRIDES ANY SELECTION IN SECTION 3.



**VELVA L. PRICE**

District Clerk, Travis County  
Civil Division (512) 854-9457

## SERVICE REQUEST FORM

**REQUESTED BY:****ATTORNEY/FILER:** Clare L. Pace**PHONE #:** 210-220-1380**EMAIL:** cpace@mdtlaw.com**SUBMITTED BY:** Clare L. Pace**TITLE:** Attorney for Plaintiff**SIGNATURE:** /s/ Clare L. Pace**ISSUE PROCESS FOR:****CAUSE #:****CASE STYLE:** Antoinette Mattox and Ronald Mattox v. Safeco Insurance Company of Indiana and Derrick Etheridge**QUICK CITATION REQUEST: (FOR SERVICE OF CITATION ON ALL DEFENDANTS BY PERSONAL)**

ISSUE CITATION TO ALL DEFENDANTS LISTED IN THE ORIGINAL PETITION AT THE ADDRESS SPECIFIED IN THE PETITION AND FORWARD THE CITATION(S) TO THE FOLLOWING:

- ☐ TRAVIS CO. CONSTABLE (specify): ☐ CERTIFIED MAIL BY CLERK ☒ ATTORNEY/REQUESTER  
☐ PRIVATE PROCESS AGENCY (specify): ☐ I HAVE INCLUDED ATTACHMENTS TO THIS REQUEST (e.g. DISCOVERY) TO INCLUDE

**DETAILED SERVICE REQUEST: (ON PARTICULAR PARTIES, BY VARIOUS DELIVERY METHODS, OR FOR NON-CITATION)****DESCRIPTION OF INSTRUMENT(S) TO BE SERVED:**☐ I HAVE INCLUDED ATTACHMENTS TO THIS REQUEST (e.g. discovery) TO INCLUDE IN THE CITATION

**TYPE OF PROCESS TO** ☐ CITATION ☐ CERTIFIED NOTICE ☐ PROTECTIVE ORDER\* ☐ TRO\*^ ☐ INJUNCTION\*^ ☐ SEQUESTRATION\*^  
**ISSUE:** ☐ ATTACHMENT\* ☐ EXECUTION\* ☐ ABSTRACT\* ☐ SUPERSEDEAS^ ☐ SCIRE FACIAS\* ☐ OTHER^

\*SPECIFY TITLE AND DATE OF UNDERLYING ORDER IN CASE RECORD:

^ATTACH A COPY OF BOND AND/OR OTHER SUPPORTING DOCUMENT

**SERVICE TO BE ISSUED:****PARTY NAME:** Safeco Insurance Company of Indiana**PARTY TYPE:** Defendant

☒ USE ADDRESS IN ORIGINAL PETITION ☐ SECRETARY OF STATE  
☐ OTHER ADDRESS:

**PARTY NAME:** Derrick Etheridge**PARTY TYPE:** Defendant

☒ USE ADDRESS IN ORIGINAL PETITION ☐ SECRETARY OF STATE  
☐ OTHER ADDRESS:

**PARTY NAME:****PARTY TYPE:**

☐ USE ADDRESS IN ORIGINAL PETITION ☐ SECRETARY OF STATE  
☐ OTHER ADDRESS:

**EMAIL PROCESS TO:**

☐ TRAVIS CO. CONSTABLE  
☒ ATTORNEY/REQUESTOR  
☐ PRIVATE PROCESS AGENCY:  
 Process Agency Name:

**SERVE VIA:**

☒ PERSONAL SERVICE  
☐ CERTIFIED MAIL (BY CONSTABLE)  
☐ CERTIFIED MAIL (BY CLERK)  
☐ CITATION BY POSTING\*  
☐ CITATION BY PUBLICATION\*

**EMAIL PROCESS TO:**

☐ TRAVIS CO. CONSTABLE  
☒ ATTORNEY/REQUESTOR  
☐ PRIVATE PROCESS AGENCY:  
 Process Agency Name:

**SERVE VIA:**

☒ PERSONAL SERVICE  
☐ CERTIFIED MAIL (BY CONSTABLE)  
☐ CERTIFIED MAIL (BY CLERK)  
☐ CITATION BY POSTING\*  
☐ CITATION BY PUBLICATION\*

**EMAIL PROCESS TO:**

☐ TRAVIS CO. CONSTABLE  
☐ ATTORNEY/REQUESTOR  
☐ PRIVATE PROCESS AGENCY:  
 Process Agency Name:

**SERVE VIA:**

☐ PERSONAL SERVICE  
☐ CERTIFIED MAIL (BY CONSTABLE)  
☐ CERTIFIED MAIL (BY CLERK)  
☐ CITATION BY POSTING\*  
☐ CITATION BY PUBLICATION\*

\*THIS TYPE OF SERVICE MAY REQUIRE A COURT ORDER. ENTER DATE OF SERVICE ORDER IN CASE RECORD.

ADDITIONAL INSTRUCTIONS FOR CLERK OR FOR OFFICER SERVING PROCESS:

FOR ADDITIONAL PARTIES TO BE SERVED, USE e-FILED PROCESS ISSUANCE REQUEST FORM ADDENDUM

Velva L. Price  
District Clerk, Travis County  
Civil Division (512) 854-9457

# SERVICE REQUEST FORM

Cause #:	Case Style:	
<b>PARTY NAME:</b>  <b>PARTY TYPE:</b>  <input type="checkbox"/> USE ADDRESS IN ORIGINAL PETITION <input type="checkbox"/> SECRETARY OF STATE <input type="checkbox"/> OTHER ADDRESS:	<b>EMAIL PROCESS TO:</b> <input type="checkbox"/> TRAVIS CO. CONSTABLE <input type="checkbox"/> ATTORNEY/REQUESTOR <input type="checkbox"/> PRIVATE PROCESS AGENCY: Process Agency Name:	<b>SERVE VIA:</b> <input type="checkbox"/> PERSONAL SERVICE <input type="checkbox"/> CERTIFIED MAIL (BY CONSTABLE) <input type="checkbox"/> CERTIFIED MAIL (BY CLERK) <input type="checkbox"/> CITATION BY POSTING* <input type="checkbox"/> CITATION BY PUBLICATION*
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\*This Type of Service may require a court order. Enter date of service order in case record:



8/22/2016 10:11:26 AM

C I T A T I O N  
T H E   S T A T E   O F   T E X A S  
C A U S E   N O .   D - 1 - G N - 1 6 - 0 0 3 5 1 5

Velva L. Price  
District Clerk  
Travis County  
D-1-GN-16-003515  
Terri Juarez

ANTOINETTE MATTOX AND RONALD MATTOX

, Plaintiff

vs.

SAFECO INSURANCE COMPANY OF INDIANA AND DERRICK ETHERIDGE

, Defendant

TO: SAFECO INSURANCE COMPANY OF INDIANA  
BY SERVING ITS REGISTERED AGENT, CORPORATION SERVICE CENTER  
211 EAST 7TH STREET, STE 620  
AUSTIN, TEXAS 78701

Defendant, in the above styled and numbered cause:

YOU HAVE BEEN SUED. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 A.M. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

Attached is a copy of the ORIGINAL PETITION of the PLAINTIFF in the above styled and numbered cause, which was filed on AUGUST 3, 2016 in the 345TH JUDICIAL DISTRICT COURT of Travis County, Austin, Texas.

ISSUED AND GIVEN UNDER MY HAND AND SEAL of said Court at office, August 04, 2016.

REQUESTED BY:  
CLARE LANE PRICE  
BANK OF AMERICA PLAZA, 25TH FLOOR  
300 CONVENT STREET  
SAN ANTONIO, TX 78205  
BUSINESS PHONE: (210) 227-7591 ext. 380  
FAX: (210) 227-7924



Velva L. Price  
Travis County District Clerk  
Travis County Courthouse  
1000 Guadalupe, P.O. Box 679003 (78767)  
Austin, TX 78701

PREPARED BY: JIMENEZ CHLOE

R E T U R N

Came to hand on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_ M., and  
executed at \_\_\_\_\_ within the County of \_\_\_\_\_  
\_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.,  
by delivering to the within named \_\_\_\_\_, each  
in person, a true copy of this citation together with the PLAINTIFFS' ORIGINAL PETITION  
accompanying pleading, having first attached such copy of such citation to such copy of pleading  
and endorsed on such copy of citation the date of delivery.

Service Fee: \$ \_\_\_\_\_

\_\_\_\_\_  
Sheriff / Constable / Authorized Person

Sworn to and subscribed before me this the \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Printed Name of Server\_\_\_\_\_  
Notary Public, THE STATE OF TEXAS\_\_\_\_\_  
County, Texas

D-1-GN-16-003515

SERVICE FEE NOT PAID

P01 - 000042899

☒ Original☐ Service Copy

CAUSE NO. D-1-GN-16-003515

STYLE: Antoinette Mattox and Ronald Mattox V. Safeco Insurance Company of Indiana and Derrick Etheridge

COURT: 345th Judicial District Court of Travis County, Texas

**AFFIDAVIT**

Came to my hand: 8 / 4 / 2016 at 4:45 o'clock P.M.

**X Citation and Plaintiff's Original Petition**

Executed by me on: 8 / 5 / 2016 at 12:56 o'clock P.M.

Executed at 211 E 7th Street, Suite 620, Austin, Texas 78701 within the county of Travis, by delivering to Safeco Insurance Company of Indiana by serving its registered agent, Corporation Service Company, designated agent Sue Vertrees in person, a true copy of the above specified civil process having first endorsed on such copy the date of delivery.

I am over the age of 18; and I am not a party to nor interested in the outcome of the above styled and numbered suit.

Authorized Person: [Signature]

Printed Name: Chris Dathe

SCH#: 6008 Expiration: 12-31-2018

Magee Litigation Support

20770 US 281 North, #108-177

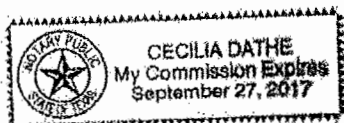
San Antonio, TX 78258

(830) 980-2500

State of Texas }

**VERIFICATION**

Before me, a notary public, on this day personally appeared the above name person, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements/ facts therein contained are within his/her personal knowledge to be true and correct. Given under my hand and seal of office on this the 8th day of August, 2016.



Cecilia Dathe  
Notary Public Signature

8/26/2016 4:27:05 PM

Velva L. Price  
District Clerk  
Travis County  
D-1-GN-16-003515  
Rick Vittitow

CAUSE NO. D-1-GN-16-003515

ANTOINETTE MATTOX AND  
RONALD MATTOX,  
Plaintiffs

v.

SAFECO INSURANCE COMPANY OF  
INDIANA AND DERRICK  
ETHERIDGE,  
Defendants

§  
§  
§  
§  
§  
§  
§  
§  
§

IN THE DISTRICT COURT

TRAVIS COUNTY, TEXAS

345<sup>TH</sup> JUDICIAL DISTRICT

**DEFENDANT SAFECO INSURANCE COMPANY  
OF INDIANA'S ORIGINAL ANSWER**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Defendant Safeco Insurance Company of Indiana ("Safeco") and files this Original Answer to Plaintiffs' Original Petition and for such would respectfully show the Court the following:

**GENERAL DENIAL**

Pursuant to TEX. R. CIV. P. 92, Safeco and denies each and every, all and singular, the allegations set forth in Plaintiffs' Original Petition and demands strict proof thereof by a preponderance of the evidence at the final trial of this case.

**II.  
AFFIRMATIVE DEFENSES**

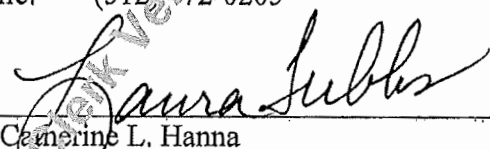
**Appraisal.** Safeco further avers and asserts that Plaintiffs have failed to satisfy all conditions precedent to bringing this suit under their homeowners' insurance policy. Specifically, Safeco reserves its right to invoke the policy's appraisal provision to resolve issues regarding the amount of loss and denies any intent to waive this right.

WHEREFORE, PREMISES CONSIDERED, Defendant Safeco Insurance Company of Indiana respectfully prays that upon final hearing hereof, Plaintiffs take nothing by reason of this action, that Safeco be awarded its costs of court, and for such other and further relief to which they may show itself justly entitled.

Respectfully submitted,

**HANNA & PLAUT, L.L.P.**  
211 East Seventh Street, Suite 6000  
Austin, Texas 78701  
Telephone: (512) 472-7700  
Facsimile: (512) 472-0205

By: \_\_\_\_\_

  
Catherine L. Hanna  
State Bar No. 08918280  
Email: channa@hannaplaut.com  
Laura D. Tubbs  
State Bar No. 24052792  
Email: ltubbs@hannaplaut.com

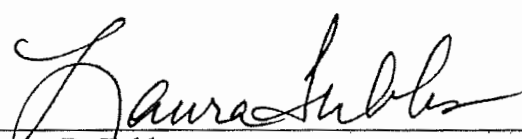
**ATTORNEYS FOR DEFENDANT SAFECO  
INSURANCE COMPANY OF INDIANA**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been delivered by e-service and/or facsimile on this 26<sup>th</sup> day of August, 2016 to:

**Via Facsimile (210) 227-7924**

Gerald T. Drought  
Clare L. Pace  
Martin & Drought, P.C.  
Bank of America Plaza, 25th Floor  
300 Convent Street  
San Antonio, Texas 78205  
*Attorneys for Plaintiffs*

  
\_\_\_\_\_  
Laura D. Tubbs